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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/939,356 | 08/24/2001 | Francis Edward Fisher | 4136-212 | 3461 |

7590 09/03/2003

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New York, NY 10176

EXAMINER

LEO, LEONARD R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3743

DATE MAILED: 09/03/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,356

Applicant(s)

FISHER ET AL.

Examiner

Leonard R. Leo

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other:

DETAILED ACTION

The amendment filed June 24, 2003 has been entered. Claim 2 is cancelled, and claims 1 and 3-10 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(a) as being anticipated by Bollesen.

Claims 1, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Villaume.

Claims 1, 3-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi (Figure 4) or Pavlovic (Figures 3-4).

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Katsui.

Regarding claim 8 in the rejections above, the recitation of “extruded” is considered to be a process limitation in an apparatus claim, which bears no patentable weight in this instance.

MPEP 2113

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaume, Katsui, Pavlovic or Bollesen in view of Rosenbaum.

Villaume, Katsui, Pavlovic or Bollesen discloses all the claimed limitations except an anodized heat sink body.

Rosenbaum discloses an extruded aluminum heat sink body comprising a mounting land 13 and a plurality of fins 15, wherein the heat sink is black anodized for the purpose of improving heat dissipation (column 2, lines 10-13).

Since Villaume, Katsui, Pavlovic or Bollesen and Rosenbaum are both from the same field of endeavor and/or analogous art, the purpose disclosed by Rosenbaum would have been recognized in the pertinent art of Villaume, Katsui, Pavlovic or Bollesen.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Villaume, Katsui, Pavlovic or Bollesen a black anodized heat sink body for the purpose of improving heat dissipation as recognized by Rosenbaum.

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaume, Takahashi, Katsui or Pavlovic in view of Pei et al.

The device of Villaume, Takahashi, Katsui or Pavlovic lacks mechanically fixing by swaging.

Pei et al discloses a heat sink body comprising a folded aluminum sheet 10 having a plurality of mounting lands 144 and a plurality of fins 12, wherein the lands are mounted to element 22 by swaging for the purpose of achieving a strong joint.

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Since Villaume, Takahashi, Katsui or Pavlovic and Pei et al are both from the same field of endeavor and/or analogous art, the purpose disclosed by Pei et al would have been recognized in the pertinent art of Villaume, Takahashi, Katsui or Pavlovic.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ in Villaume, Takahashi, Katsui or Pavlovic lands swaged to the elements for the purpose of achieving a strong joint as recognized by Pei et al. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a land projection and element socket, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Response to Arguments

The rejections in view of Pei et al, Lee et al and Sauer are withdrawn.

As noted in MPEP 2113, “PRODUCT-BY-PROCESS CLAIMS ARE NOT LIMITED TO THE MANIPULATIONS OF THE RECITED STEPS, ONLY THE STRUCTURE IMPLIED BY THE STEPS” and “ONCE A PRODUCT APPEARING TO BE SUBSTANTIALLY IDENTICAL IS FOUND AND A 35 U.S.C. 102 /103 REJECTION MADE, THE BURDEN SHIFTS TO THE APPLICANT TO SHOW AN UNOBVIOUS DIFFERENCE.” In the final product, i.e. a corrugated element, the structure of the heat sink body is the same regardless of the method limitation employed to achieve the final product. Furthermore, applicants have not demonstrated any structural differences, rather the device can only be made as set forth by the method limitation.

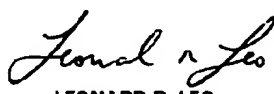
Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry of a general nature, relating to the status of this application or clerical nature (i.e. missing or incomplete references, missing or incomplete Office actions or forms) should be directed to the Technology Center 3700 Customer Service whose telephone number is (703) 306-5648. Status of the application may also be obtained from the Internet: <http://pair.uspto.gov/cgi-bin/final/home.pl>

Any inquiry concerning this Office action should be directed to Leonard R. Leo whose telephone number is (703) 308-2611.


LEONARD R. LEO
PRIMARY EXAMINER
ART UNIT 3743

August 27, 2003